

## **Chapter 6.04**

### **ANIMAL CONTROL REGULATIONS--GENERALLY**

#### **Sections:**

- 6.04.020 Unusual Animals Prohibited.**
- 6.04.030 Large Animal Permit Requirements.**
- 6.04.040 Pigeons, Small Animal, and Fowl Permit Requirements.**
- 6.04.041 Keeping of Roosters Prohibited.**
- 6.04.045 Calculating Minimums and Maximums; Exclusions.**
- 6.04.050 Sanitary Requirements.**
- 6.04.060 Exemptions.**
- 6.04.070 Application for Permit.**
- 6.04.080 Issuance of Permit.**
- 6.04.090 Permit Fees.**
- 6.04.100 Revocation and Suspension of Permit.**
- 6.04.110 Term of Permit; Not Transferable.**
- 6.04.120 Running at Large Prohibited.**
- 6.04.125 Vaccination Against Rabies; Required for Ferrets.**
- 6.04.130 Impoundment.**
- 6.04.140 Holding Impounded Animals or Fowl.**
- 6.04.150 Shelter Fee; Release From Shelter.**
- 6.04.155 Hybrid; Unlawful.**
- 6.04.160 Permit Required to Operate Pet Shop.**
- 6.04.165 Pet Shop; Restrictions.**
- 6.04.170 Minimum Standards of Sanitation, Care, and Adequate Housing of Animals Required in Pet Shops.**
- 6.04.180 Inspection of Pet Shop.**
- 6.04.190 Violations, Suspensions, and Revocations of Pet Shop Permit.**
- 6.04.200 Review of Violation and Reinstatement of Suspension of Pet Shop Permit.**
- 6.04.210 Permit Required to Have Animal Exhibit or Rides.**
- 6.04.215 Bodily Contact; Unlawful.**
- 6.04.220 Inspection of Animal Exhibit or Ride.**
- 6.04.225 Denial or Revocation; Notice of Appeal.**
- 6.04.230 Continuing Animal Exhibit or Rides.**
- 6.04.235 Animal Rescue Organization: Permit.**
- 6.04.240 Rabies; Disposition of Animals Afflicted or Exposed.**
- 6.04.250 Dead Animals; Duty to Remove.**
- 6.04.260 Dead Animals; Unlawful Acts.**

- 6.04.270**     **Offensive Odors from Enclosures in Which Animals are Kept.**
- 6.04.280**     **Storage of Hides.**
- 6.04.290**     **Keeping of Swine Prohibited.**
- 6.04.300**     **Confining Stray or At-large Animals.**
- 6.04.310**     **Cruelty to Animals.**
- 6.04.313**     **Cruelty; Exemptions.**
- 6.04.315**     **Animal Neglect.**
- 6.04.320**     **Molesting Animals.**
- 6.04.330**     **Tethered Animals.**
- 6.04.340**     **Trapping.**
- 6.04.350**     **Selling or Giving Away Animals.**
- 6.04.360**     **Vicious Animals Prohibited.**
- 6.04.370**     **Emergency Seizure and Destruction of Animals.**
- 6.04.380**     **Fees.**
- 6.04.390**     **Enforcement.**
- 6.04.400**     **Interference with Officer Prohibited.**
- 6.04.410**     **Animal Fights.**
- 6.04.420**     **Animal Control Violation; Citation.**
- 6.04.430**     **Interference with Capture of Animals or Fowl.**
- 6.04.435**     **Animal Noise; Disturbing the Peace Prohibited.**
- 6.04.440**     **Penalty for Violations.**
- 6.04.450**     **Severability and Savings Clause.**
- 6.04.460**     **Applicability.**

#### **6.04.010     Definitions .**

(Repealed by Ord. 18092 §57; November 18, 2002; prior Ord. 17832 §1; April 16, 2001: Ord. 16712 §1; December 12, 1994: Ord. 15889 §1; May 20, 1991: Ord. 15515 §1; April 9, 1990: P.C. §8.71.010: Ord. 14955 §1; August 22, 1988). *See Chapter 6.02.*

#### **6.04.020     Unusual Animals Prohibited**

(a) It shall be unlawful for any person or persons to own, keep, or harbor any unusual animal within the corporate limits of the City of Lincoln. This section shall not apply to: (1) a public zoo, circus, or carnival that maintains all legally required permits under applicable state or federal law, including applicable rules and regulations of the Nebraska Game and Parks Commission and federal wildlife agencies; (2) colleges and universities using said unusual animal for research and teaching; (3) a humane society kenneling or boarding impounded unusual animals for Animal Control; (4) any wildlife rescue organizations with appropriate permits from the Nebraska Game and Parks Commission that rehabilitate or shelter unusual animals; or (5) authorized individuals sheltering animals belonging to a public zoo which require extensive care or rehabilitation.

(b) It shall be unlawful for any person to sell, give away, transfer, or import into the City any unusual animals as defined in this chapter except for a public zoo doing business with another zoo.

(c) In the event that the Director determines an unusual animal is being owned, kept, or harbored by any person in violation of this chapter, the Director may have such person prosecuted for such violation and shall order such person to remove said unusual animal from the city or destroy it. Such order shall be contained in a written notice to remove or destroy said unusual animal within ten days and shall be delivered in person or by certified mail, return receipt requested. If the owner fails to remove or destroy such unusual animal after the expiration of eleven days from receipt of notice, the Director is hereby authorized and empowered to seek a warrant from the appropriate court to enable the Director to enter private property in order to impound the unusual animal in violation of this chapter.

(d) Authority to remove and impound. If the Director reasonably believes that a violation of this section exists, the Director is hereby authorized and empowered to seek a warrant from the appropriate court to enable the Director to enter private property in order to inspect, care for, or impound unusual animals in violation of this chapter.

(e) Owner's cost. Any person or persons violating this section shall bear full cost and expenses incurred by the City in the recovery, care, medical treatment, impoundment cost, and disposal of said animals, including removal from a motor vehicle or trailer.

(f) Whenever an unusual animal has been seized pursuant to a warrant issued by the court, the release or disposition of the unusual animal shall be within the sound discretion of the court. The court may, upon conviction of the owner for a violation of this title, order that the unusual animal may be destroyed in a humane fashion, and any such impoundment or disposal costs incurred by the City shall be payable by the person so convicted. (Ord. 17851 §1; May 7, 2001: prior Ord. 15889 §2; May 20, 1991: Ord. 15515 §2; April 9, 1990: P.C. §8.71.020: Ord. 14955 §2; August 22, 1988).

#### **6.04.030 Large Animal Permit Requirements.**

It shall be unlawful to keep any large animal within the limits of the city without having procured a permit therefor and without adhering to the following requirements:

(a) The minimum premise area or lot size upon which any large animal is kept shall be the area set forth in the following table:

<u>Number of Large Animals</u>	<u>Minimum Acres Required</u>
1 - 2	1
3 or more	1.5 acres per animal

(b) Every large animal kept upon such premise or lot shall be kept confined within an exercise area, corral, pen, shelter structure, or pasture; provided, however, that no exercise area, corral, pen, shelter structure, or pasture shall be nearer than seventy-five feet to any building or structure used for residential purposes, either when located on the same lot or plot of ground or on adjoining property. (Ord. 15515 §3; April 9, 1990: P.C. §8.71.030: Ord. 14955 §3; August 22, 1988).

#### **6.04.040 Pigeons, Small Animal, and Fowl Permit Requirements.**

(a) It shall be unlawful for any person to keep or harbor small animals or fowl, without a permit, in numbers equal to or greater than the minimum provided in Table 6.04.040.

- (b) It shall be unlawful for any person to keep or harbor small animals or fowl as follows:
- (1) In numbers greater than the maximum provided in Table 6.04.040;
  - (2) Within pens, enclosures or shelters closer than fifty feet to a neighboring residence; or
  - (3) Within pens, enclosures or shelters closer than five feet to a neighboring property line.

**TABLE 6.04.040**

<u>Property Size</u>	<u>Minimum and Maximum Number of Small Animals or Fowl</u>	<u>Exercise/Shelter Area (Square Feet)</u>
1 acre or less	Rabbits or Other Small Animals 3 - 20	3 times number of small animals
	Bantam, miniatures or other fowl weighing less than 3 lbs. 7 - 30	2 times number of fowl
	Chickens, ducks or other fowl weighing 3 - 5 lbs. 3 - 20	3 times number of fowl
	Pigeons 14 - 200	1 times number of pigeons
	Turkey, geese or other fowl weighing 5 - 20 lbs. 2 - 5	7 times number of fowl
For each additional 1 acre	2 times the number per each category	Same as above

(Ord. 16712 §2; December 12, 1994: prior Ord. 16014 §1; November 25, 1991: Ord. 15515 §4; April 9, 1990: P.C. §8.71.040: Ord. 14955 §4; August 22, 1988).

#### **6.04.041 Keeping of Roosters Prohibited.**

No person shall, within the corporate limits of the City, own, keep or harbor live roosters. The unlawful keeping or harboring of roosters is hereby declared to be a public nuisance.

This prohibition on the ownership, keeping, or harboring of live roosters shall not apply to roosters owned or harbored by a governmental entity or a person participating in a health surveillance conducted by a governmental entity, Humane Society, animal shelter, animal research facility, zoo, or to an animal

hospital operated by veterinarians duly licensed under the laws of the State of Nebraska. (Ord. 18092 §58; November 18, 2002).

#### **6.04.045 Calculating Minimums and Maximums; Exclusions.**

In calculating the minimum and maximum numbers of animals for purposes of Sections 6.04.030 and 6.04.040, such numbers shall not include:

- (a) Large animals under the age of 180 days if the animal's biological parent is lawfully kept upon the premises.
- (b) Small animals under the age of sixty days or kept within a dwelling.
- (c) Fowl under the age of thirty days or kept within a dwelling. (Ord. 16712 §3; December 12, 1994).

#### **6.04.050 Sanitary Regulations.**

The owner of any large or small animal or fowl shall keep all pens, enclosures, and shelter structures wherein such animals or fowl are kept in a clean and sanitary condition so as not to give off offensive odors which are a source of discomfort to persons residing in the vicinity thereof. The owner of any large or small animal or fowl shall not allow offal, manure, and waste material of such animal to accumulate or remain in the pens, enclosures, and shelter areas, excluding pasture acreage, upon which such animal or fowl resides or is confined in any manner which is conducive to the breeding or attraction of flies, mosquitoes, or other noxious insects or in any manner which endangers the public health or safety or which creates an unhealthy environment. The maintenance or permitting of any of the foregoing conditions on any such lot or parcel of ground is hereby declared to be a public nuisance. The owner of any large or small animal or fowl shall in a sanitary manner remove or dispose of all offal, manure, and waste material accumulating from such animal or fowl at least once every seven days. The flooring or pads of all such pens, enclosures, and shelters shall be of a hard-surface material if the total area of the premises is less than 7,500 square feet. It shall be the duty of the Director to enforce the provisions of this chapter. (Ord. 15515 §5; April 9, 1990; P.C. §8.71.050; Ord. 14955 §5; August 22, 1988).

#### **6.04.060 Exemptions.**

- (a) The provisions of Sections 6.04.030 and 6.04.040 shall not apply to:
    - (1) Commercial establishments killing and processing animals under federal inspection,
    - (2) Animal research facilities,
    - (3) Farmsteads of twenty acres or more as defined by the ordinances of the City of Lincoln relating to dairies,
    - (4) Animal shelters,
    - (5) Animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska,
    - (6) Public zoos,
    - (7) Owners of raptors licensed under the laws of the State of Nebraska,
    - (8) Wildlife rescue organizations licensed by the federal government or State of Nebraska,
- and

(9) Educational institutions created by law or incorporated for that purpose. (Ord. 16712 §4; December 12, 1994: prior Ord. 15515 §6; April 9, 1990: P.C. §8.71.060: Ord. 14955 §6; August 22, 1988).

#### **6.04.070 Application for Permit.**

Application for a permit to keep any large or small animals, or fowl shall be made to the Director, in writing, upon forms provided for that purpose by the Director. Such application shall contain the following information in addition to such other information as the Director may desire:

- (a) Name and residence of applicant;
- (b) Location of premises where large or small animals or fowl are to be kept;
- (c) Species of large or small animals or fowl to be kept;
- (d) Number of large or small animals or fowl to be kept;
- (e) Statement of the method in which offal, manure and waste material accumulating from such large or small animals or fowl will be sanitarily disposed of.

(f) An attached diagram or plat of premises, showing dimensions of premises, the location and dimensions of the enclosure, corral, pen, or shelter, and the distance from residence buildings, and property lot line, either on the same lot or on adjacent property. (Ord. 15515 §7; April 9, 1990: P.C. §8.71.070: Ord. 14955 §7; August 22, 1988).

#### **6.04.080 Issuance of Permit.**

Prior to the issuance of any permit for the keeping of large or small animals or fowl the Animal Control Division shall investigate the application for the permit and determine whether said premises conform to the requirements of this chapter and other ordinances of the city with respect to zoning and building regulations, sanitation, and location of enclosures and shelters. No permit shall be issued by Director until proper facilities are provided for the care and protection of the large or small animals or fowl to be cared for on the premises and the location of the premises is deemed to be proper and suitable for the keeping of such large or small animals or fowl and the application has been approved as to proper zoning. (Ord. 15515 §8; April 9, 1990: P.C. §8.71.080: Ord. 14955 §8; August 22, 1988).

#### **6.04.090 Permit Fees.**

A permit shall be issued for any large or small animal or fowl upon the Director's finding that the applicant satisfies the requirements of this chapter and upon payment of the following fees:

Large Animal .....	\$50.00
Small Animal .....	\$50.00
Fowl .....	\$50.00
Combination of Large and Small Animal or Fowl .....	\$75.00

A permit holder who fails to renew the permit within thirty days of the permit expiration date shall pay a late fee of \$25.00 in addition to the annual permit fee. (Ord. 18092 §59; November 18, 2002: prior Ord. 16163 §1; July 20, 1992: Ord. 15515 §9; April 9, 1990: P.C. §8.71.090: Ord. 14955 §9; August 22, 1988).

#### **6.04.100 Revocation and Suspension of Permit.**

Any permit issued to keep any large or small animal or fowl shall be subject to revocation or suspension by the Director for violation by the permittee of any of the provisions of this chapter, or other ordinances of the city with respect to the keeping of large or small animals or fowl, now in effect or hereafter enacted. (Ord. 15515 §10; April 9, 1990: P.C. §8.71.100: Ord. 14955 §10; August 22, 1988).

#### **6.04.110 Term of Permit; Not Transferable.**

All permits issued to keep any large or small animal or fowl shall expire on the thirty-first day of May following the date of issuance, unless sooner revoked, and no permit shall be assignable or transferable either as to permittee, location, or species of animals. (Ord. 15515 §11; April 9, 1990: P.C. §8.71.110: Ord. 14955 §11; August 22, 1988).

#### **6.04.120 Running at Large Prohibited**

No person keeping or harboring any animal or fowl shall permit such animal or fowl except pigeons to go loose or run at large in any of the public ways of the city or upon the property of another, except in enclosures on the private property owned or leased by the person keeping or harboring such animal or fowl. In the event that an unusual or other nondomesticated or wild animal found running at large is creating a hazard to life or property, such animal shall be destroyed if it cannot be confined or captured. The Director shall not be required to give notice to the owner of such an animal prior to its destruction. (Ord. 15515 §12; April 9, 1990: P.C. §8.71.120: Ord. 14955 §12; August 22, 1988).

#### **6.04.125 Vaccination Against Rabies; Required for Ferrets.**

Any person, within the City of Lincoln, who owns, keeps, or harbors a ferret shall have such ferret vaccinated with a rabies vaccine as approved by the State of Nebraska. All ferrets shall be vaccinated against rabies commencing at three months of age and vaccination shall be repeated at fifteen months; a booster vaccination shall be given triennially thereafter. Unvaccinated ferrets acquired or moved into the City of Lincoln must be vaccinated within thirty days after purchase or arrival, unless under three months of age. Such vaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska. It shall be the duty of every veterinarian, at the time of vaccinating any ferret, to provide a copy of the rabies vaccination certificate to the Director and to provide a rabies vaccination tag to the owner. (Ord. 18092 §60; November 18, 2002).

#### **6.04.130 Impoundment.**

(a) When any animal is found to be infected with a disease posing a threat to the public health or safety as determined by the Director, the Director or the Chief of Police or their agents are hereby empowered to seize and impound such animal.

(b) Any small animal, unusual animal, wild large animal or fowl found running at large may be impounded by the Director and shall be held by the Director for not less than seventy-two hours, unless sooner redeemed or released as provided in subsection (d) below; and if not so redeemed or released at the expiration of the time limit of seventy-two hours, may be sold, destroyed, or otherwise disposed of. The proceeds of any sale of such animal or fowl shall be used to discharge the fees and expenses of impounding and keeping such animal or fowl and of such sale. Any proceeds in excess of the foregoing fees and expenses shall be paid over to the owner of such animal or fowl, if known, and if not known, shall

be paid into the Animal Control Fund. The owner of any small animal, unusual animal, wild large animal, or fowl which is impounded and destroyed under the provisions of this chapter shall be held responsible for payment of the daily boarding costs and impoundment fee set out in Section 6.04.150.

(c) Any domesticated large animal found running at large may be impounded by the Director and shall be held by the Director for not less than ten days, unless sooner redeemed or released as provided in subsection (d) below; and if not so redeemed or released at the expiration of the time limit of ten days, such animal may be sold, destroyed or otherwise disposed of. The proceeds of any sale of such large animal shall be used to discharge the fees and expenses of impounding and keeping such large animal. Any proceeds in excess of the foregoing fees and expenses shall be paid over to the owner of such large animal, if known, and if not known, shall be paid into the Animal Control Fund. The owner of any large animal which is impounded and destroyed shall be held responsible for payment of the daily boarding costs and impoundment fee set out in Section 6.04.150.

(d) Any impounded animal may be released immediately to the owner upon payment of the expenses incurred in the seizing and keeping of such animal, provided that an unusual or other nondomesticated or wild animal shall only be released upon condition that the owner shall immediately remove such animal from the city or destroy it. In the case of a diseased animal, it may be released upon the Director's determination that the health and safety of the public is no longer threatened. (Ord. 15515 §13; April 9, 1990; P.C. §8.71.130; Ord. 14955 §13; August 22, 1988).

#### **6.04.140 Holding Impounded Animals or Fowl.**

The Director shall notify the owner of any animal or fowl impounded, regardless of reason for impounding, if such owner's identity and address can be ascertained by the Director upon reasonable investigation, within twenty-four hours after such animal or fowl is impounded under any of the provisions of this chapter. The notice shall inform the owner that the animal has been impounded and the purpose or reason for such impounding. Notice of impoundment of any animal, including any significant marks of identification, shall be posted at the pound within twenty-four hours after such animal is impounded, as public notification of impoundment. (Ord. 15515 §14; April 9, 1990; P.C. §8.71.140; Ord. 14955 §14; August 22, 1988).

#### **6.04.150 Shelter Fee; Release from Shelter.**

Unless otherwise ordered by a court of competent jurisdiction, any animal held or impounded in the animal shelter pursuant to the provisions of this title shall be released to the owner thereof by the Director upon presentation of the following:

- (a) Proof of ownership of such animal,
- (b) Payment, or satisfactory arrangements for payment, of the daily boarding cost plus the impoundment fee as set out below:

First impoundment per animal . . . . .	\$20.00;
Second impoundment per animal . . . . .	\$30.00;
Third impoundment per animal . . . . .	\$35.00;
Fourth and all ensuing impoundments per animal . . . . .	\$45.00;

- (c) Proof that the animal is properly licensed and vaccinated against rabies.



Any animal which has remained in the shelter seventy-two hours without being claimed may be destroyed and disposed of in a humane manner, except as otherwise provided by law. The owner of such animal shall remain liable for payment of the daily boarding cost plus the impoundment fee as set out above.

Payment of the daily boarding cost and impoundment fee shall not relieve the owner from the responsibility of any or all penalties which may be imposed for a violation of any of the provisions of this chapter. (Ord. 17832 §2; April 16, 2001; prior Ord. 15515 §15; April 9, 1990: P.C. §8.71.150; Ord. 14955 §15; August 22, 1988).

#### **6.04.155 Hybrid; Unlawful.**

It shall be unlawful to own an animal hybrid; except a person who owns an otherwise lawful animal hybrid prior to the enactment of this ordinance shall be entitled to maintain ownership of said hybrid until such time as the hybrid dies, is given away, sold, or otherwise transferred to the ownership of another, or for one year (whichever is shorter), for such time as the following conditions are met:

- (a) The hybrid shall be cared for in a manner consistent with the law;
- (b) The hybrid is kept in a completely fenced enclosure that is adequate to prevent the escape of the animal hybrid;
- (c) The animal hybrid is vaccinated against rabies annually and the owner provides proof of same; and
- (d) A hybrid of the family canidae shall count as a dog and a hybrid of the family felidae shall count as a cat for purposes of determining the number of dogs or cats owned, kept, or harbored on a premises under Chapters 6.08 and 6.12 of this title. (Ord. 17832 §3; April 16, 2001).

#### **6.04.160 Permit Required to Operate Pet Shop or Groom Shop.**

No pet shop or groom shop shall be operated or maintained in the City of Lincoln without a permit issued by the Director. Before such a permit is issued, an inspection of the premises shall be conducted by the Director. Upon a finding by the Director that the premises are in compliance with the law and upon payment of the following fees, said permit shall be issued:

Pet Shop .....	\$85.00
Groom Shop .....	\$85.00
Pet Shop with Groom Shop .....	\$100.00
First Mobile Groom Shop Unit .....	\$55.00
Each Additional Unit .....	\$20.00

A permit holder who fails to renew the permit within thirty days of the permit expiration date shall pay a late fee of \$25.00 in addition to the annual permit fee.

- (a) Permits are not transferable from one person to another person or place. A valid permit shall be posted in a conspicuous place in every pet shop or groom shop.
- (b) A permit holder shall notify the Director of any change of operations which may affect the status of the permit and shall keep the Director apprised of any change in name or location of such business.
- (c) The pet shop or groom shop permit shall expire September thirtieth of each calendar year and shall be renewed by October first of that year.
- (d) The pet shop or groom shop owner shall submit detailed plans and specifications to the Director whenever any such shop is constructed, modified, enlarged, or remodeled in a manner requiring a building permit under the Lincoln Municipal Code. Approval of plans and specifications shall be required

prior to any construction, modification, enlargement, or remodeling and final approval shall be required before a permit for operation is issued or renewed.

(e) Final plans and specifications shall show compliance with all requirements of the Lincoln Municipal Code and shall include schedules describing the ventilation system, plumbing equipment, and finishes of floors, walls, and ceilings. The plans required herein need not be professionally drawn. (Ord. 18092 §61; November 18, 2002: prior Ord. 16163 §2; July 20, 1992: Ord. 15889 §3; May 20, 1991: Ord. 15515 §16; April 9, 1990: P.C. §8.71.160: Ord. 15246 §1; August 7, 1989: Ord. 14955 §16; August 22, 1988).

#### **6.04.165 Pet Shop; Restrictions.**

(a) It shall be unlawful to operate a mobile pet shop or conduct a business of obtaining pet animals for resale, adoption, or selling from any vehicle parked or operated on any city street.

(b) It shall be unlawful for the owner, proprietor, employee, or volunteer of any pet shop to knowingly sell or offer for sale a sick or ill pet animal or misrepresent the breed or sex of a pet animal to any buyer or consumer.

(c) It shall be unlawful to board any dog or cat overnight at any pet shop, groom shop, or obedience training business, except that licensed veterinarians, animal shelters, and humane societies are excluded from the requirements of this subsection. (Ord. 17832 §4; April 16, 2001).

#### **6.04.170 Minimum Standards of Sanitation, Care, and Adequate Housing of Animals Required in Pet Shops or Groom Shops .**

All pet shops and groom shops shall be maintained in accordance with the minimum standards of sanitation, care, and housing adopted by resolution of the City Council of the City of Lincoln, after report and recommendation of the Board of Health. (Ord. 15889 §4; May 20, 1991: prior Ord. 15515 §17; April 9, 1990: P.C. §8.71.170: Ord. 14955 §17; August 22, 1988).

#### **6.04.180 Inspection of Pet Shop or Groom Shop.**

The Director, after proper identification, shall be permitted to enter at any reasonable time any pet shop or groom shop for the purpose of making inspections to determine compliance with this chapter. The Director shall make as many inspections and reinspections as are necessary for the enforcement of this chapter.

(a) At least once every six months the Director shall inspect each pet shop.

(b) At least once every twelve months the Director shall inspect each groom shop. (Ord. 15889 §5; May 20, 1991: prior Ord. 15515 §18; April 9, 1990: P.C. §8.71.180: Ord. 14955 §18; August 22, 1988).

#### **6.04.190 Violations, Suspensions, and Revocations of Pet Shop or Groom Shop Permit.**

Pet shop or groom shop permit holders or operators shall be subject to the following violations, suspensions, and revocations of the permit:

(a) If the Director makes an inspection of a pet shop or groom shop and discovers a violation of this ordinance, the Director shall notify the permit holder or operator of such violation by means of an inspection report form or other written notice. The notification shall:

(1) Set forth the specific violation(s) found;

(2) Establish a specific and reasonable period of time for the correction of the violation(s) found;

(3) State that failure to comply with any notice issued in conformance with the provisions of this ordinance may result in legal prosecution or suspension of the permit until such time as the violations are corrected;

(4) State that an opportunity for appeal from any notice or inspection finding will be provided if a written request for a hearing is filed with the Director within five days.

(b) Notices provided for under this section shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder. A copy of such notice shall be filed with the records of the Director.

Notwithstanding the other provisions of this chapter, when the Director finds unsanitary or other conditions in the operation of a pet shop or groomshop which, in such Director's judgment, constitute a substantial hazard to public health, the Director may without warning or hearing issue a written notice to the permit holder or operator citing such condition and specifying the corrective action to be taken. If the Director deems necessary, such order shall state that the permit is immediately suspended and all operations are to be immediately discontinued. Any person to whom such an order is issued shall immediately comply therewith.

(c) For serious or repeated violations of any of the requirements of this chapter, or for interference with the Director's duties herein, the pet shop or groom shop permit may be permanently revoked after an opportunity for a hearing has been provided by the Director. Prior to such action, the Director shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five days following service of such notice unless a request for a hearing is filed with the Director by the permit holder within such five-day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto. (Ord. 15889 §6; May 20, 1991; prior Ord. 15515 §19; April 9, 1990: P.C. §8.71.190; Ord. 14955 §19; August 22, 1988).

#### **6.04.200 Review of Violation and Reinstatement of Suspension of Pet Shop Permit.**

The hearings provided for in this chapter shall be conducted by the Director at a time and place designated by such Director. Based upon the record of such hearing, the Director shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. The issuance of an inspection report or other written notice of a violation of this ordinance shall not be intended to preclude the enforcement of any other provisions of this ordinance pending action by the Director. (Ord. 15515 § 20; April 9, 1990: P.C. §8.71.200; Ord. 14955 §20; August 22, 1988).

#### **6.04.210 Permit Required to Have Animal Exhibit or Rides.**

No person shall operate any animal exhibit or animal rides within the corporate limits of the City of Lincoln without having obtained a permit from the Director. Application for a permit shall be made to the Director on forms provided by the Department. Before such permit is issued, the Director shall consider the information on the application and any inspection of the business or exhibits. Upon a finding by the Director that said business or exhibit is in compliance with the permit requirements and law, and upon payment of thirty dollars, the Director shall issue said permit, subject to the following conditions:

- (a) The permit application shall sufficiently set forth the following:
- (1) The name, address, and telephone number of the person responsible for the animal exhibit or ride.
  - (2) A description of the animal exhibit or ride.
  - (3) A listing of the number and species of animals participating in the exhibit or ride.
  - (4) The date(s), hours and location of the exhibit or ride.
  - (5) An agreement to save and keep the City of Lincoln free and harmless from any and all loss or damages or claims for damages, including attorney's fees and litigation costs, arising from or out of the animal exhibit or ride.
  - (6) An agreement to maintain public liability insurance in the form of a comprehensive general liability policy with a minimum combined single limit of \$1,000,000 aggregate for any one occurrence. The coverages required herein shall be subject to review and approval by the City Attorney for conformance with the provisions of this section.
  - (7) Provision of a current certificate of insurance attached to the application, signed by a qualified agent of an insurance company licensed to do business in the State of Nebraska evidencing the existence of valid and effective policies of insurance naming the City of Lincoln as an additional insured for the coverage required by subsection (6) of this section, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self insurance retainers of each policy and a copy of an endorsement placed on each policy requiring thirty days notice by mail to the City Clerk before the insurer may cancel the policy for any reason, and upon request of the City Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies.
  - (8) A statement describing the operator's prior experience in operating the animal exhibit or ride.
  - (9) A statement describing adequate safety measures in place for both animals, spectators and the public generally including a description of the enclosure, shelter or cage provided for the animal.
  - (10) An estimate as to the number of public spectators expected to attend the exhibit or ride.
  - (11) Such other information as may be requested by the Director.
- (b) Upon consideration of the permit application, the Director may also:
- (1) Consider whether the applicant has conformed to all permit requirements and the provisions of this chapter in any previous animal exhibits or rides.
  - (2) Include such reasonable conditions as the Director deems necessary for the preservation of the public health, safety and welfare.
- (c) Permits are not transferable from one person to another person or from one location to another location.
- (d) A permit holder shall notify the Director of any change in his operations which may affect the status of his or her permit and shall keep the Director apprised of any change in name or location of the permit holder's business;
- (e) The temporary animal exhibit or ride permit shall expire at the end of the period for which it was issued and shall not run for more than thirty days. The continuing animal exhibit or ride permit shall be valid for one year from the date of issuance and may be renewed each year upon payment of the permit fee;
- (f) Sale of any animals shall subject the permit holder to the pet shop provisions of this chapter;

(g) The permit fee shall be waived for animal rides and exhibits sanctioned and managed by Nebraska nonprofit corporations.

Provisions of this section shall not apply to a public zoo, rodeo, livestock show, organizations sponsoring and persons participating on county fairgrounds or at Pershing Auditorium, fairs or exhibitions intended to advance agricultural events, horse-racing regulated by Nebraska state statutes, auctions performed by auctioneers licensed with the State of Nebraska, and educational institutions created by law or incorporated for that purpose. (Ord. 17851 §2; May 7, 2001; prior Ord. 16163 §3; July 20, 1992: Ord. 15515 §21; April 9, 1990: P.C. §8.71.210: Ord. 14955 §21; August 22, 1988).

#### **6.04.215 Bodily Contact; Unlawful.**

It shall be unlawful for any person or persons to provide for unusual carnivorous mammals under the age of one year, except domesticated dogs and cats, to be held, cradled, or grasped by the public wherein there is bodily contact for the purposes of entertainment, an exhibition, show, performance, circus, or carnival. (Ord. 17851 §3; May 7, 2001).

#### **6.04.220 Inspection of Animal Exhibit or Ride.**

The Director shall be permitted to enter at any reasonable time any animal exhibit or ride operation for the purpose of making inspections to determine compliance with animal control ordinances. The Director shall make as many inspections and reinspections as are necessary for the enforcement of this chapter. (Ord. 15515 §22; April 9, 1990: P.C. §8.71.220: Ord. 14955 §22; August 22, 1988).

#### **6.04.225 Denial or Revocation; Notice of Appeal.**

If the Director denies an application, fails to renew a permit or revokes an animal exhibit or ride permit, the Director shall notify the applicant or permit holder of such decision in writing by mailing such notice, by certified mail, to the address listed on the applicant's most recent application. Upon such notification, and after the expiration of eleven days from the date of such notice, the determination shall be final and binding upon the City and the applicant unless, within ten days after notice is mailed, the applicant requests, in writing, a review of the determination by the Director. Such written request shall be filed with the Director. The Director shall review the same within fifteen days (exclusive of weekends and holidays) of the filing of the written request therefor, unless the Director and applicant agree to a later review date. At such review, the applicant may testify and present any written statements or documentary evidence relevant to the determination. The Director shall make a final and binding determination after such review within thirty days from the date of the review. The applicant may appeal any final determination as provided herein to the district court as provided by law. (Ord. 17851 §4; May 7, 2001).

#### **6.04.230 Continuing Animal Exhibit or Rides.**

Notwithstanding other provisions of this chapter to the contrary, any person who certifies to the Health Director that such person's animal exhibit or ride is permanently located within the corporate limits of the city and that said animal exhibit or ride is conducted on a continuing basis throughout the year shall, upon compliance with the other provisions of this chapter, be granted, upon payment of sixty dollars, a permit which shall be valid for one year and may be renewed each year thereafter upon payment of an additional fifty dollars per year. (Ord. 16163 § 4; July 20, 1992: prior Ord. 15515 §23; April 9, 1990: P.C. §8.71.230: Ord. 14955 §23; August 22, 1988).

#### **6.04.235 Animal Rescue Organization: Permit.**

It shall be unlawful for any person to maintain or operate an animal rescue organization within the City of Lincoln without first having obtained a permit therefor from the Director. An application shall include the organization's proof of non-profit status and permit fee. Upon a finding by the Director that the organization is in compliance with the law and minimum standards of operation as adopted by resolution by the City Council, said permit shall be issued. The terms of the permit are as follows:

- (a) Permits are not transferable.
- (b) Permits are for the rescue of pet animals only.
- (c) A permit holder shall notify the Director of any change in name, address, or substantial control, or ownership in the operation of the organization.
- (d) The animal rescue organization permit shall expire December 31st of each calendar year for which issued. All permit renewals shall be due January 1st of each year.
- (e) The permit fee shall be five dollars per year for the animal rescue organization in addition to the five dollars per foster home.
- (f) No rescued animal shall be kept by an animal rescue organization or foster home for more than 90 days unless the rescued pet animal is documented to be under a veterinarian's care. The 90 days shall not apply to rescued pet animals housed in a pet shop.
- (g) No animal rescue organization or foster home shall house more than the number of dogs allowed by law. An animal rescue organization or foster home shall be allowed to house five more cats than allowed by law.
- (h) Animal rescue organizations or foster homes shall obtain all permits or licenses as required by law except those required by law for the individual pet animal. (Ord. 18092 §62; November 18, 2002).

#### **6.04.240 Rabies; Disposition of Animals Afflicted or Exposed**

Every animal which, by competent authority, is found to have rabies shall be at once destroyed and every animal that has been exposed to such disease shall be at once confined by the owner of such animal under direction of the Director, in some secure place for such length of time as to show that such exposure has not given such animal said disease, and so as to avoid all danger to life or health; and the body of any animal that dies of such disease shall be disposed of by the owner in a method approved by the Director. (Ord. 15515 §24; April 9, 1990: P.C. §8.71.240: Ord. 14955 §24; August 22, 1988).

#### **6.04.250 Dead Animals; Duty to Remove.**

Except as permitted by subsection (b) of Section 6.04.260 of this code, if any animals or fowl shall die in the possession of any person in this city, it shall be the duty of such person to cause the same to be at once removed to a site approved by the Director and buried or otherwise disposed of. In case the owner or person having charge of any such animal or fowl shall neglect or refuse to remove such dead animal or fowl within twenty-four hours after its death, the agency provided by the city for the removal of dead animals, or if no such agency exists, then the Director of the Department of Health shall cause the same to be removed at the expense of such owner or person having charge of the same, such expenditure to be recovered in a civil action. Whenever the owner or other person having charge of any dead animal or fowl cannot be found, it shall be the duty of the agency provided by the city for the removal of dead animals, or if no such agency exists, then the Director of the department to cause such animal to be re-

moved and buried at the expense of the city. (Ord. 15515 §25; April 9, 1990: P.C. §8.71.250: Ord. 14955 §25; August 22, 1988).

#### **6.04.260 Dead Animals; Unlawful Acts.**

(a) Except as permitted by subsection (b) below, it shall be unlawful for any person to deposit or bury on any of the streets or alleys or other places within the corporate limits of the city, or cause to be buried, any carcass of any dead animal or fowl of any kind, and it shall be unlawful for the owner or person having possession of any animal that shall die to suffer the carcass of any such animal to remain within the corporate limits of said city for more than twenty-four hours after the death of said animal or fowl except under the direction of the agency provided by the city for the removal of dead animals, or the Director of Health, as provided in the preceding section. And, in no event shall diseased dead animals or fowl be used for food for other animals.

(b) Nothing in this section shall prevent burial of any dog, cat, or other animal on the residential premises of the owner of such animal if such animal weighs less than 150 pounds and such animal is a household pet. Any such animal shall be buried within twenty-four hours after its death, and all parts of any such animal shall be covered by at least two feet of fine soil. (Ord. 15515 §26; April 9, 1990: P.C. §8.71.260: Ord. 14955 §26; August 22, 1988).

#### **6.04.270 Offensive Odors From Enclosures in Which Animals are Kept.**

It shall be unlawful for any person or persons to keep any cattle, horses, goats, dogs, cats, rabbits, or other animals, chickens, ducks, geese, turkeys, or any other fowl in any pen, shed, or yard within the city from which any deleterious or offensive odor shall be emitted; and the maintaining of any of the above-mentioned animals or fowl in such condition shall of itself constitute a nuisance. (Ord. 15515 §27; April 9, 1990: P.C. §8.71.270: Ord. 14955 §27; August 22, 1988).

#### **6.04.280 Storage of Hides.**

No salted or green hides shall be stored in any warehouse or other building or other place within the city so that odors arising from said hides shall annoy or disturb the occupants of the premises in the vicinity thereof; and the maintaining of such hides in such condition shall of itself constitute a public nuisance. (Ord. 15515 §28; April 9, 1990: P.C. §8.71.280: Ord. 14955 §28; August 22, 1988).

#### **6.04.290 Keeping of Swine Prohibited**

No person shall, within the corporate limits of the city, keep live swine. The unlawful keeping of swine is hereby declared to be a nuisance. (Ord. 15515 §29; April 9, 1990: P.C. §8.71.290: Ord. 14955 §29; August 22, 1988).

#### **6.04.300 Confining Stray or At-large Animals.**

Any person who finds an animal running at large may take it into such person's possession and must as soon as possible thereafter notify the Director or Animal Control Division and surrender the animal to the Director upon demand. No such action shall result in a charge against the city. The finder of an animal running at large shall use reasonable care to preserve it from injury. (Ord. 15515 §30; April 9, 1990: P.C. §8.71.300: Ord. 14955 §30; August 22, 1988).

#### **6.04.310 Cruelty to Animals.**

Cruelty to animals shall be prohibited within the Lincoln city limits.

(a) Physical Abuse. It shall be unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise cruelly set upon any animal.

(b) Physically Mistreat. It shall be unlawful for any person to knowingly, intentionally, or recklessly cause or allow any animal to endure unreasonable or unjustifiable pain, suffering, or injury.

(c) It shall be unlawful for any person to use any live animal including fish and fowl as or for a target or in any cruel or unusual manner. (Ord. 17832 §5; April 16, 2001: prior Ord. 15889 §7; May 20, 1991: Ord. 15515 §31; April 9, 1990: P.C. §8.71.310: Ord. 14955 §31; August 22, 1988).

#### **6.04.313 Cruelty; Exemptions.**

Section 6.04.310 shall not apply in the following circumstances, except that no animal shall be killed in an inhumane fashion or tortured in any event.

(1) Care or treatment of an animal by a veterinarian licensed under the Nebraska Veterinary Practice Act;

(2) Commonly accepted care or treatment of a police animal by a law enforcement officer in the normal course of his or her duties;

(3) Research activity carried on by any research facility currently meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131, et seq.;

(4) Commonly accepted practices of hunting, fishing, or trapping, while lawfully engaged in said activity;

(5) Commonly accepted practices occurring in conjunction with rodeos, animal racing, or pulling contests, while lawfully engaged in said activity;

(6) Humane killing of an animal by the owner or by his or her agent or a veterinarian upon the owner's request;

(7) Commonly accepted practices of animal husbandry with respect to farm animals, including their transport from one location to another and nonnegligent actions taken by personnel or agents of the Nebraska Department of Agriculture or the United States Department of Agriculture in the performance of duties prescribed by law;

(8) Use of reasonable force against an animal, other than a police animal, which is working, including killing, capture, or restraint, if the animal is outside the owned or rented property of its owner or custodian and is injuring or posing an immediate threat to any person or other animal;

(9) Killing of house or garden pests in one's own house or garden. For purposes of this section, "house or garden pests" shall include moles, voles, mice, rats, bats, gophers, ground squirrels, and the like, but shall not include any animal which is assigned a hunting season by the State of Nebraska or which is subject to any other special protection such as being designated a threatened or endangered species;

(10) Commonly followed practices occurring in conjunction with the slaughter of animals for food or byproducts; and

(11) Commonly accepted animal training practices. (Ord. 17832 §6; April 16, 2001).



#### **6.04.315 Animal Neglect.**

(a) Care and maintenance. It shall be unlawful for any person owning, keeping or harboring any animal to fail, refuse, or neglect to provide such animal with adequate food, water, shade, shelter, living environment, or veterinary care as may be necessary for diseased or injured animals. Any animal habitually kept outside or repeatedly left unattended outside shall be provided with a structurally sound, moisture-proof and windproof shelter large enough to accommodate and keep the animal reasonably clean, dry, and comfortable. Adequate food, water, shade, shelter, living environment and care shall mean:

(1) That each animal shall at suitable intervals, and at least once every twenty-four hours receive a quantity of wholesome foodstuff suitable for the species' physical condition and age, sufficient to maintain an adequate level of nutrition for the animal;

(2) That each animal shall at all times have access to an adequate supply of clean, fresh potable water for the species' physical condition and age, and such water shall be provided either free-flowing or in a receptacle. Snow or ice is not an acceptable water source. If water pans or dishes are used, such pans or dishes shall have weighted bottoms or be mounted or secured in a manner that prevents tipping;

(3) That each animal shall have convenient access to adequate shelter throughout the year. Any artificial shelter shall be structurally sound and maintained in good repair to protect the animal from injury and from the elements, and shall be of sufficient size to permit the animal to enter, stand, turn around and lie down in a natural manner. Any shelter which does not protect the animal from temperature extremes or precipitation, or which does not provide adequate ventilation or drainage, does not comply with this section. The shelter and any other spaces accessible to the animal and all bedding for the animal shall be maintained in a manner which minimizes the risk of the animal contracting disease, being injured or becoming infested with parasites.

(4) That each animal shall receive care and medical treatment for debilitating injuries, parasites, and disease, sufficient to maintain the animal in good health and to minimize suffering;

(5) That any animal being confined in any sort of shelter or restrained in any way shall be provided space to walk and lie down in and said space shall have adequate drainage such that the animal shall be free to walk and lie down without coming into contact with standing water;

(6) That if any animal is restrained by a chain, leash, wire cable or similar restraint, such restraint shall be designed and placed to prevent choking or strangulation or entanglement with other objects. Any tethering device must be attached to a properly fitting collar or harness. Choke chain collars, prong or pinch collars, or any collar devised for training so that it chokes or pinches the animal when pulled is prohibited for the purposes of tethering an animal. The tethering device must be at least ten feet in length but shall not allow the animal to leave the property on which it is tethered.

(7) That if any animal is kept in an enclosure, the enclosure shall be constructed in a manner and of material designed to minimize the risk of injury to the animal, and shall encompass sufficient usable space to keep the animal in good condition. When a dog is confined outside a residence, the following minimum space requirements shall be used:

<b>Size of Dog</b>	<b>Enclosure Size (Sq. Ft.)</b>
Extra Large (over 26 in. at withers or over 75 lbs.)	48
Large (over 20 in. and up to 26 in. at withers/not over 75 lbs)	40
Medium (over 12 in. and up to 20 in. at withers/not over 50 lbs.)	32
Small (12 in. or less at the withers/not over 20 lbs.)	24

An additional sixteen (16) square feet shall be required for each dog sharing a pen with another.

(b) Leaving animals in unattended vehicle. It shall be unlawful for any person to place or confine an animal or allow an animal to be confined, in a motor vehicle or trailer in such a manner or under such conditions or for such periods of time as to endanger the health or well-being of the animal, including, but not limited to, extremes of heat or cold, lack of food or water, or any other circumstances which may cause suffering, disability, injury, or death.

(c) Abandonment of animals. It shall be unlawful for any person to abandon any animal within the City of Lincoln. Abandonment shall mean leaving an animal for a period of time in excess of twenty-four hours without appropriate provisions having been made for the feedings, watering, and care of such animal, or leaving an animal unattended with the intent to discontinue care and maintenance of the animal.

(d) Authority to remove and impound. If the Director reasonably believes that a violation of this section exists, the Director is hereby authorized and empowered to seek a warrant from the appropriate court to enable the Director to enter private property in order to inspect, care for, or impound animals which show signs of animal neglect or abuse.

(e) Owner's cost. Any person or persons violating this section shall bear full cost and expenses incurred by the City in the recovery, care, medical treatment, impoundment cost, and disposal of said animals, including removal from a motor vehicle or trailer.

(f) Whenever an animal has been seized pursuant to a warrant issued by the court, the release or disposition of the animal shall be within the sound discretion of the court. The court may, upon conviction of the owner for a violation of this title, order that the animal may be destroyed in a humane fashion, and any such impoundment or disposal costs incurred by the City shall be taxable to the person so convicted. (Ord. 17832 §7; April 16, 2001).

#### **6.04.320 Molesting Animals.**

It shall be unlawful for any person to in any manner tease, annoy, disturb, molest, or irritate an animal that is confined to the owner's premises. (Ord. 15515 §32; April 9, 1990: P.C. §8.71.320: Ord. 14955 §32; August 22, 1988).

#### **6.04.330 Tethered Animals.**

It shall be unlawful for any person to tether, chain, or fasten any animal in such a manner as to permit it to be upon any public sidewalk or street or to leave it unattended while tethered, chained, or fastened on public property. It shall be unlawful to tether, chain, or fasten an animal in such a manner as to cause it injury or pain or not permit it to reach shelter, food, and water. (Ord. 15515 §33; April 9, 1990: P.C. §8.71.330: Ord. 14955 §33; August 22, 1988).

#### **6.04.340 Trapping.**

It shall be unlawful to set or cause to be set a snare trap, metal spring trap, or conibear-type trap within the city limits. (Ord. 15515 §34; April 9, 1990: P.C. §8.71.340: Ord. 14955 §34; August 22, 1988).

#### **6.04.350 Selling or Giving Away Animals.**

(a) No live animal or fowl that has been dyed or otherwise colored artificially may be sold or offered for sale, raffled, offered or promoted as incentive to participate in any game, or given as a prize, premium, or advertising device, or displayed in any store, shop, carnival, or other public place.

(b) It shall be unlawful for any person to sell, or display with the intent to sell, or offer for sale or barter, give away, or otherwise dispose of or exchange any animal in or upon any street, sidewalk, public building, public park, or other public place. Nothing in this section shall be construed to prohibit the sale, display, or adoption of animals and fowl by humane societies and licensed facilities such as veterinary clinics and pet shops. (Ord. 17832 §8; April 16, 2001: prior Ord. 15515 §35; April 9, 1990: P.C. §8.71.350: Ord. 14955 §35; August 22, 1988).

#### **6.04.360 Vicious Animals Prohibited**

(a) It shall be unlawful for any person to own, keep, or harbor a vicious animal within the City of Lincoln; provided, this section shall not apply to animals under the control of a law enforcement or military agency. For the purpose of this chapter, an animal may be declared vicious by the Director if any one of the following facts or criteria are met:

(1) The animal has bitten a person or persons and the bite and attack was unprovoked, or that the animal exhibits vicious propensities in present or past conduct, including but not limited to conduct such that the animal (i) has killed a domestic animal without provocation while running at large; or (ii) has bitten a person or persons in a consecutive twelve-month period three times; or (iii) did bite or attack a person once causing wounds or injuries resulting in lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the health and life of the victim; or (iv) could not be controlled or restrained by the owner at the time of bite or attack on a person to prevent the occurrence; or

(2) Any other propensities that reasonably indicate that the animal is vicious.

(b) Whenever an animal is declared vicious, the Director shall notify the owner of said animal that within ten days from the date of receipt of such notification the owner shall have the animal humanely destroyed by a veterinarian of the owner's choice and the owner shall produce to the Director a statement from the veterinarian certifying the action taken, or humanely destroyed by the animal shelter at the owner's expense. Said notice shall be served either in person or by mailing such notice by certified or registered mail. If the owner shall have failed to destroy such vicious animal after the expiration of eleven days from receipt of notice and no appeal is taken, the Director shall have such animal destroyed.

(c) The determination that any dog is vicious as defined herein shall be deemed to have been made upon notice to the owner of such dog as provided herein. Upon such notification, and after the expiration of eleven days from the date of such notice, the determination shall be final and binding upon the city and upon the owner unless within ten days after notice the owner requests, in writing, a review of the determination by the Director. At such review the owner may present any written statements or documentary evidence relevant to the determination. The Director shall make a final and binding

determination after such review within fifteen days from the date of the review. The owner may appeal any final determination as provided herein to the district court as provided by law.

(d) The owner of any animal which is impounded and destroyed under this section shall be held responsible for payment of any expenses incurred by the Director for impounding, keeping, and destroying such animal, including those expenses incurred by the Director during the time disposition of the animal is stayed as provided above, and failure to pay such fee to the Director within fifteen days after destruction of such animal shall constitute a violation of this chapter. (Ord. 15889 §8; May 20, 1991: prior Ord. 15515 §36; April 9, 1990: P.C. §8.71.360: Ord. 14955 §36; August 22, 1988).

#### **6.04.370 Emergency Seizure and Destruction of Animals.**

Whenever any person has been bitten by any animal, the Director may, in cases of emergency affecting the health, safety, or welfare of the public, seize and destroy such animal immediately, unless the animal is subject to any waiting period required elsewhere in this title, in which case the Director shall confine or impound the animal as provided therein. (Ord. 15515 §37; April 9, 1990: P.C. §8.71.370: Ord. 14955 §37; August 22, 1988).

#### **6.04.380 Fees.**

All money received by the Director under this chapter shall be deposited with the City Treasurer who shall credit such money to the Animal Control Fund. (Ord. 15515 §38; April 9, 1990: P.C. §8.71.380: Ord. 14955 §38; August 22, 1988).

#### **6.04.390 Enforcement.**

The enforcement of the provisions of this chapter shall be under the direction of the Director and the Chief of Police. For the purpose of enforcing this chapter or abating any nuisance existing hereunder, the Director or any Animal Control officer or police officer may enter upon private premises. (Ord. 15515 §39; April 9, 1990: P.C. §8.71.390: Ord. 14955 §39; August 22, 1988).

#### **6.04.400 Interference with Officer Prohibited**

It shall be unlawful for any person to knowingly and intentionally interfere with the Director or any Animal Control officer in the lawful discharge of their duties as prescribed in this title. (Ord. 15515 §40; April 9, 1990: P.C. §8.71.400: Ord. 14955 §40; August 22, 1988).

#### **6.04.410 Animal Fights.**

It shall be unlawful for any person or persons within the limits of the City of Lincoln to set dogs or other animals or fowl to fighting, by agreement or otherwise, or in any manner to urge, forward, or encourage the same. (Ord. 15515 §41; April 9, 1990: P.C. §8.71.410: Ord. 14955 §41; August 22, 1988).

#### **6.04.420 Animal Control Violation; Citation.**

Whenever a police officer or Animal Control officer of the City of Lincoln shall observe any violation of this chapter, it shall be such officer's duty to issue an Animal Control citation to the appropriate person.

At the time of the commission of the alleged violation, the accused may be served with a printed notice requiring him or her to make such appearance on or before the date specified thereon and advising whether execution of waiver of appearance and plea of guilty has been made available by the court for such violation. Said notice shall further apprise the accused that he or she must appear at said court during the hours fixed by the judges of the county court as shown on said notice and that, upon direct refusal or failure to so appear, a warrant shall be issued for his or her arrest. (Ord. 15515 §42; April 9, 1990; P.C. §8.71.420; Ord. 14955 §42; August 22, 1988).

#### **6.04.430 Interference with Capture of Animals or Fowl.**

It shall be unlawful for any person to hinder, delay, interfere with or obstruct the Director or assistants of the Director while engaged in capturing, securing, or taking to the animal shelter any animals or fowl subject to be impounded, or to break open or in any manner directly or indirectly aid, counsel, or advise the breaking open of any animal shelter, or any ambulance, wagon, or other vehicle used for the collecting or conveying of animals or fowl to the shelter. (Ord. 15515 §43; April 9, 1990; P.C. §8.71.430; Ord. 14955 §43; August 22, 1988).

#### **6.04.435 Animal Noise; Disturbing the Peace Prohibited.**

(a) It shall be unlawful for any person to own, keep, or harbor any bird or animal otherwise allowed by this title which by loud, continued, or frequent noise shall disturb the peace and quiet of any person or neighborhood.

(b) This section shall not apply to:

(1) Public zoos that maintain all legally required permits under applicable state or federal law, including applicable rules and regulations of the Nebraska Game and Parks Commission and federal wildlife agencies;

(2) Colleges and universities using animals for research and teaching;

(3) Humane societies;

(4) The business premises of licensed veterinarians;

(5) Any wildlife rescue organization with appropriate permits from the Nebraska Game and Parks Commission that rehabilitate or shelter animals; or

(6) Authorized individuals sheltering animals belonging to a public zoo which require extensive care or rehabilitation.

(c) Any person convicted of violating this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed six months or by a fine in a sum not more than \$500.00, recoverable with costs, or both such fine and imprisonment, except that each person so convicted shall be fined in a sum of not less than \$50.00 for the first offense; not less than \$75.00 for a second offense; and not less than \$100.00 for the third offense and each offense thereafter. (Ord. 17995 §1; May 6, 2002).

#### **6.04.440 Penalty for Violations.**

Any person who shall violate any of the provisions of Section 6.04.310 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed six months or be fined in a sum not to exceed \$500.00 and not less than \$250.00 recoverable with costs, or by both such fine and imprisonment.

Any person upon whom a duty is placed by the provisions of this chapter who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this chapter for which a penalty is not specifically provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed six months or be fined in a sum not to exceed \$500.00 and not less than \$35.00 for the first offense, and not less than \$50.00 for a second offense, and not less than \$100.00 for the third offense and each offense thereafter, recoverable with costs, or by both such fine and imprisonment.

In addition to the penalties for all violations herein provided, the court may order such person to reimburse the city, and/or a public or private agency for expenses incurred in the care, medical treatment, impoundment, and disposal of any animal involved in or connected with the incident for which the complaint was filed.

A court, upon finding a person guilty of any violation of this title, may, in addition to fines, imprisonment, costs, or otherwise, order such convicted person to make restitution to any person for damage or injury to such person or such person's property.

Each day that a violation of any section in this chapter continues shall constitute a separate and distinct offense and shall be punishable as such. The penalties herein provided shall be cumulative with and in addition to any penalty or forfeiture elsewhere in this chapter provided. (Ord. 17832 §9; April 16, 2001: prior Ord. 15515 §44; April 9, 1990: P.C. §8.71.440: Ord. 14955 §44; August 22, 1988).

#### **6.04.450 Severability and Savings Clause.**

(a) Each section and each subdivision of a section of this title is hereby declared to be independent of every other section or subdivision of a section so far as inducement for the passage of this ordinance is concerned and invalidity of any section or subdivision of a section of this title shall not invalidate any other section or subdivision of a section thereof.

(b) This title shall in no manner affect pending actions, either civil or criminal, founded on or growing out of any ordinance or part of any ordinance hereby repealed; and this title shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any ordinance or part of any ordinance hereby repealed.

(c) All individuals holding animal permits on the effective date of this ordinance shall be allowed to renew their permits provided that the permit pertain to the same property and to the same number of animals. (Ord. 15515 §45; April 9, 1990: P.C. §8.71.450: Ord. 14955 §45; August 22, 1988).

#### **6.04.460 Applicability.**

The provisions of this chapter shall not be interpreted, administered, or enforced so as to apply outside the corporate limits of the City of Lincoln. (Ord. 15515 §46; April 9, 1990: P.C. §8.71.460: Ord. 14955 §46; August 22, 1988).